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MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,070,167	:	
Issue Date: July 04, 2006	:	
Application No. 10/754,163	:	DECISION ON PETITION
Filed: January 10, 2004	:	
Attorney Docket No. HERK LPL -10	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 20, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Todd J. Bacon) was ever given a power of attorney to act on behalf of inventor Richard A. Robb or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

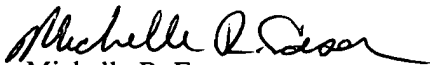
Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
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By hand:                      U. S. Patent and Trademark Office  
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4231.



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Cc:     **TODD BACON**  
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